

§ 114.9

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of § 114.5(g); a trade association may solicit its other employees under the provisions of § 114.6.

(2 U.S.C. 441b, 437d(a)(8))

[41 FR 35955, Aug. 25, 1976, as amended at 48 FR 48650, Oct. 20, 1983; 48 FR 50508, Nov. 2, 1983; 54 FR 10622, Mar. 15, 1989; 54 FR 27154, June 28, 1989, 54 FR 34114, Aug. 17, 1989; 54 FR 48580, Nov. 24, 1989; 55 FR 2281, Jan. 23, 1990; 70 FR 41944, July 21, 2005]

§ 114.9 Use of corporate or labor organization facilities.

(a) *Use of corporate facilities for individual volunteer activity by stockholders and employees.*

(1) Stockholders and employees of the corporation may, subject to the rules and practices of the corporation and 11 CFR 100.54, make occasional, isolated, or incidental use of the facilities of a corporation for individual volunteer activity in connection with a Federal election and will be required to reimburse the corporation only to the extent that the overhead or operating costs of the corporation are increased. A corporation may not condition the availability of its facilities on their being used for political activity, or on support for or opposition to any particular candidate or political party. As used in this paragraph, *occasional, isolated, or incidental use* generally means—

(i) When used by employees during working hours, an amount of activity which does not prevent the employee from completing the normal amount of work which that employee usually carries out during such work period; or

(ii) When used by stockholders other than employees during the working period, such use does not interfere with the corporation in carrying out its normal activities.

(2) *Safe harbor.* For the purposes of paragraph (a)(1) of this section, the following shall be considered occasional, isolated, or incidental use of corporate facilities:

(i) Any individual volunteer activity that does not exceed one hour per week or four hours per month, regardless of whether the activity is undertaken during or after normal working hours; or

(ii) Any such activity that constitutes voluntary individual Internet

activities (as defined in 11 CFR 100.94), in excess of one hour per week or four hours per month, regardless of whether the activity is undertaken during or after normal working hours, provided that:

(A) As specified in 11 CFR 100.54, the activity does not prevent the employee from completing the normal amount of work for which the employee is paid or is expected to perform;

(B) The activity does not increase the overhead or operating costs of the corporation; and

(C) The activity is not performed under coercion.

(3) A stockholder or employee who makes more than occasional, isolated, or incidental use of a corporation's facilities for individual volunteer activities in connection with a Federal election is required to reimburse the corporation within a commercially reasonable time for the normal and usual rental charge, as defined in 11 CFR 100.52(d)(2), for the use of such facilities.

(b) *Use of labor organization facilities for individual volunteer activity by officials, members, and employees.*

(1) The officials, members, and employees of a labor organization may, subject to the rules and practices of the labor organization and 11 CFR 100.54, make occasional, isolated, or incidental use of the facilities of a labor organization for individual volunteer activity in connection with a Federal election and will be required to reimburse the labor organization only to the extent that the overhead or operating costs of the labor organization are increased. A labor organization may not condition the availability of its facilities on their being used for political activity, or on support for or opposition to any particular candidate or political party. As used in this paragraph, *occasional, isolated, or incidental use* generally means—

(i) When used by employees during working hours, an amount of activity during any particular work period which does not prevent the employee from completing the normal amount of work which that employee usually carries out during such work period; or

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(ii) When used by members other than employees during the working period, such use does not interfere with the labor organization in carrying out its normal activities.

(2) *Safe harbor.* For the purposes of paragraph (b)(1) of this section, the following shall be considered occasional, isolated, or incidental use of labor organization facilities:

(i) Any individual volunteer activity that does not exceed one hour per week or four hours per month, regardless of whether the activity is undertaken during or after normal working hours; or

(ii) Any such activity that constitutes voluntary individual Internet activities (as defined in 11 CFR 100.94), in excess of one hour per week or four hours per month, regardless of whether the activity is undertaken during or after normal working hours, provided that:

(A) As specified in 11 CFR 100.54, the activity does not prevent the employee from completing the normal amount of work for which the employee is paid or is expected to perform;

(B) The activity does not increase the overhead or operating costs of the labor organization; and

(C) The activity is not performed under coercion.

(3) The officials, members, and employees who make more than occasional, isolated, or incidental use of a labor organization's facilities for individual volunteer activities in connection with a Federal election are required to reimburse the labor organization within a commercially reasonable time for the normal and usual rental charge, as defined in 11 CFR 100.52(d)(2), for the use of such facilities.

(c) *Use of corporate or labor organization facilities to produce materials.* Any person who uses the facilities of a corporation or labor organization to produce materials in connection with a Federal election is required to reimburse the corporation or labor organization within a commercially reasonable time for the normal and usual charge for producing such materials in the commercial market.

(d) *Use or rental of corporate or labor organization facilities by other persons.*

Persons, other than those specifically mentioned in paragraphs (a) and (b) of this section, who make any use of corporate or labor organization facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a Federal election are required to reimburse the corporation or labor organization within a commercially reasonable time in the amount of the normal and usual rental charge, as defined in 11 CFR 100.52(d)(2), for the use of the facilities.

(e) Nothing in this section shall be construed to alter the provisions in 11 CFR Part 114 regarding communications to and beyond a restricted class.

[41 FR 35955, Aug. 25, 1976, as amended at 45 FR 21210, Apr. 1, 1980; 67 FR 78681, 78682, Dec. 26, 2002; 68 FR 69595, Dec. 15, 2003; 71 FR 18614, Apr. 4, 2006]

§ 114.10 Nonprofit corporations exempt from the prohibitions on making independent expenditures and electioneering communications.

(a) *Scope.* This section describes those nonprofit corporations that qualify for an exemption in 11 CFR 114.2. It sets out the procedures for demonstrating qualified nonprofit corporation status, for reporting independent expenditures and electioneering communications, and for disclosing the potential use of donations for political purposes.

(b) *Definitions.* For the purposes of this section—

(1) *The promotion of political ideas* includes issue advocacy, election influencing activity, and research, training or educational activity that is expressly tied to the organization's political goals.

(2) A corporation's *express purpose* includes:

(i) The corporation's purpose as stated in its charter, articles of incorporation, or bylaws, except that a statement such as "any lawful purpose," "any lawful activity," or other comparable statement will not preclude a finding under paragraph (c) of this section that the corporation's only express purpose is the promotion of political ideas;

(ii) The corporation's purpose as publicly stated by the corporation or its agents; and